

## **REMARKS**

### **The Office Action**

Claims 1-4 and 8-12 stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent Application Publication No. 2004/0022237 A1 by Elliott, et al. (hereinafter "Elliott") in view of U.S. Patent Application Publication No. 2004/0264455 A1 to Tao (hereinafter "Tao:").

Claims 5-7 stand rejected under 35 U.S.C. §103(a) as being anticipated by Elliott in view of Tao and further in view of U.S. Patent No. 6,985,492 B1 to Thi, et al. (hereinafter "Thi").

Claims 13-15 stand rejected under 35 U.S.C. §103(a) as being anticipated by Elliott in view of Tao and further in view of Thi.

Claims 16-21 stand rejected under 35 U.S.C. §103(a) as being anticipated by Elliott in view of Thi.

### **Arguments/Comments**

Claims 16-21 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Accordingly, any rejection directed thereto is now moot.

The rejections of claims 1 and 8 are hereby traversed. Notably, Tao and the present application are commonly assigned to the same owner. In particular, an "assignment search" on the USPTO's eBusiness website reveals that:

- the assignment of the present application was record on 07/31/2003 at reel/frame 014366/0903; and
- the assignment of Tao was recorded on 10/24/2003 at reel/frame 014630/0242.

Additionally, Tao only qualifies as prior art with respect to the present application under 35 U.S.C. §102(e). Therefore, in accordance with 35 U.S.C. §103(c)(1), Tao may not be used as a reference to reject the claims of the present application under 35 U.S.C. §103(a). See MPEP §§ 706.02(I)- 706.02(I)(3), and 2146.

Accordingly, the current rejection of claims 1 and 8 is erroneous and should be withdrawn. Furthermore, in the absence of any other rejection or objection to

claims 1 and 8, it is respectfully submitted that claims 1 and 8 are in fact allowable. Moreover, claims 2-7 and 9-15 are also submitted as allowable, at least inasmuch as they depend from allowable claims 1 and 8, respectively.

### **CONCLUSION**

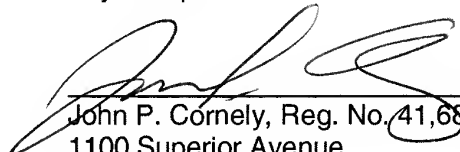
For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-15) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone John P. Cornely, at (216) 861-5582.

Respectfully submitted,

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February 18, 2008  
Date

  
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